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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,648	06/20/2007	Rodney Julian Parker	040857/316148	8495
836 7590 02/21/2008 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER GRANO, ERNESTO ARTURIO	
			ART UNIT 4147	PAPER NUMBER
			MAIL DATE 02/21/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/598,648

Applicant(s)

PARKER, RODNEY JULIAN

Examiner

ERNESTO A. GRANO

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-24, 29-31, and 34-38 is/are rejected.
- 7) ☒ Claim(s) 25-28, 32 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/07/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

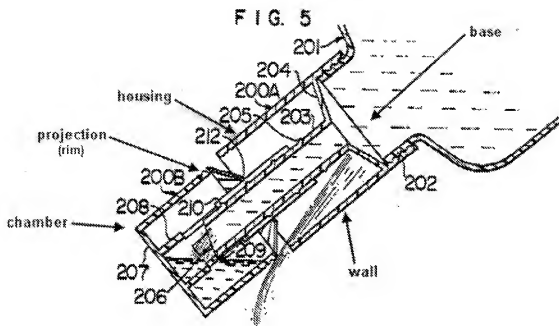
2. The information disclosure statement (IDS) submitted on 09/07/2007 is being considered by the examiner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

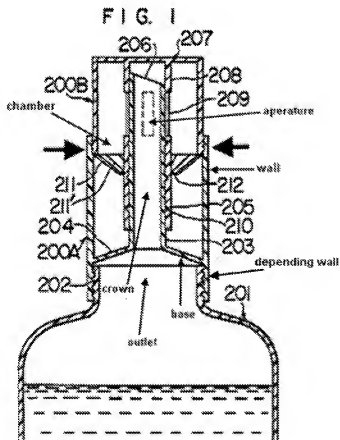
4. Claims 21-24, 29, 30, and 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saeki (US Patent 4,151,934) in view of Patterson (US Patent 5,111,947).



5. In re claim 21, with reference to figure 5 above, Saeki ('934) discloses a shot dispenser comprising: a housing having an axis, a base transverse to said axis, and a wall upstanding from the base and defining an enclosure; a chamber within the housing and relatively axially movable along the axis in the direction of the base between a closed condition in which material therein is contained, and an open condition in which material therein can drain past the base, the chamber including a projection in abutment with the wall to prevent relative movement of the chamber along the axis to the open condition.
6. However, Saeki ('934) fails to disclose a removable obstruction being provided to allow such relative movement.

7. Patterson ('947) teaches a tamper proof cap for use on a container comprising a removable tear band connected to the cap and attached to a rim on the housing of a container. See figures 1 and 2

8. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the out side of housing wall of Saeki ('934) to include an outside housing rim with a removable tear band connected to a cap as taught by Patterson ('947) in order to make the dispenser tamper proof and let consumers know that it was factory sealed for safety.



9. In re claim 22, with reference to figure 1 above, Saeki ('934) discloses wherein the wall comprises a continuous peripheral surround for the chamber.

10. In re claim 23, with reference to figure 1 above, Saeki ('934) discloses wherein the base is circular, and centered on the axis, an annulus of the base defining an outlet.

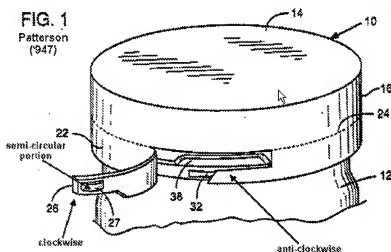
11. In re claim 24, with reference to figure 1 above, Saeki ('934) discloses wherein the base includes a crown on the axis and which is adapted for leak tight fitting in an aperture of the chamber, relative axial movement of said chamber causing the aperture to uncover the outlet, and to permit material in the chamber to drain therefrom.

12. In re claim 29, with reference to figure 5 above, Saeki ('934) discloses wherein the projection is a rim.

13. In re claim 30, Saeki ('934) and Patterson ('947) as applied to in claim 21 above, discloses wherein the chamber has a removable cap, a peripheral edge of the cap comprising the rim.

14. In re claim 34, Saeki ('934) and Patterson ('947) as applied to in claim 21 above, discloses the claimed invention except for the obstruction comprises a tear band between the projection and wall.

15. Since applicant has not disclosed that the tear band between the projection and the wall solves any stated problem or is for any particular purpose and it appears that the modified dispenser of Saeki ('934) and Patterson ('947) as applied to in claim 21 above, would perform equally well with the tear band between the projection and the wall, It would have been an obvious matter of design choice to include the tear band between the projection and the wall in the modified dispenser of Saeki ('934) and Patterson ('947) as applied to in claim 21 above.



16. In re claim 35, Saeki ('934) and Patterson ('947) as applied to in claim 21 and 34 above, discloses wherein the tear band comprises clockwise and anti-clockwise semi-circular portions having adjacent tear tabs to be gripped in the hand. See figure 1 above

17. In re claim 36, Saeki ('934) and Patterson ('947) as applied to in claim 21 and 34 above, discloses the claimed invention except for the cap, tear band and housing together provide a substantially closed drum having a flush outer surface.

18. Since applicant has not disclosed that the cap, tear band and housing together having a flush outer surface solves any stated problem or is for any particular purpose and it appears that the modified dispenser of Saeki ('934) and Patterson ('947) as applied to in claim 21 and 34 above, would perform equally well with the cap, tear band and housing together having a flush outer surface, It would have been an obvious matter of design choice to include the cap, tear band and housing together having a flush outer surface in the modified dispenser of Saeki ('934) and Patterson ('947) as applied to in claim 21 and 34 above.

19. In re claim 37, with reference to figure 5 above, Saeki ('934) discloses wherein the housing is adapted for leak tight fitting to the mouth (202) of a container (201).

20. In re claim 38, with reference to figure 1 above, Saeki ('934) discloses wherein the housing includes a wall depending from the base, and having a thread thereon for engagement with a thread at the mouth (202) of a container (201).

21. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saeki (US Patent 4,151,934) and Patterson (US Patent 5,111,947) as applied to in claim 21 above, and in further view of Macartney (EP Patent 0,335,505).

22. In re claim 31, Saeki ('934) and Patterson ('947) as applied to in claim 21 above, disclose the claimed invention except for the cap being secured to the chamber by a snap fit.

23. Macartney (505) teaches fluid dispensing device with a dosage cup and cap connected to a fluid reservoir through a dip tube and the dosage cap being secured to the dosage cup by a snap fit seal.

24. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cap of Saeki ('934) and Patterson ('947) as applied to in claim 21 above, to include a snap fit seal as taught by Macartney (505) in order to reattach the lid, after being opened for the first time.

Allowable Subject Matter

25. Claims 25-28, 32, and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kong (US Patent 4,951,839) discloses a measuring and dispensing unit for dispensing various measured amounts of a liquid. Minihane et al. (US Patent 6,068,165) discloses a premeasured dispensing bottle cap comprising a housing, a chamber, and a cap. St. Germain et al. (US Patent 7,021,481) disclose a lid

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for use with a container comprising a channel in the underside thereof adapted to engage the upper edge of a side wall of a container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERNESTO A. GRANO whose telephone number is (571)270-3927. The examiner can normally be reached on 9:00am - 4:00pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on 571-272-4491. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ernesto A Grano
Examiner
Art Unit 4147

/George Nguyen/
Supervisory Patent Examiner, Art Unit 4147
/Ninh Nguyen/
Primary Examiner, Art Unit 3745